

## **REMARKS**

### **Rejections**

#### ***Rejections under 35 U.S.C. § 112***

Claims 27-47 and 57 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicant has amended independent claim 27 to claim a processor and a physical device. One example of the claimed processor is illustrated in Figure 3 and examples of the physical device are illustrated in Figures 4A and 4B. Applicant has amended independent claim 37 to claim a transaction terminal comprising a hardware component that reads data from a device. This amendment is supported in paragraph 47, in which examples of transaction terminals are set forth, each of which has a hardware component that reads data from a device.

Accordingly, Applicant requests the withdrawal of the rejection of claims 27-47 and 57 under 35 U.S.C. § 112.

#### ***Rejections under 35 U.S.C. § 101***

Claims 14-32, 35-47 and 57 stand rejected under 35 U.S.C. § 101 as being directed toward non-statutory subject matter.

Applicant has amended claims 14-26 to claim a computer readable storage medium, which Applicant respectfully submits renders the claims statutory.

Applicant has amended independent claims 27 and 37 to include hardware components. Thus, the claims are not directed to software per se. In addition, the amendments to independent claims 27 and 37 recite a practical application.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 14-32, 35-47 and 57 under 35 U.S.C. § 101.

#### ***Rejections under 35 U.S.C. § 102(b)***

##### **Claims 27, 33, 34, 37, 41 and 42**

Claims 27, 33, 34, 37, 41 and 42 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,598,474 to Johnson (previously cited).

The Examiner did not consider certain elements in the claims as limiting. Applicant respectfully submits that those elements in the amended claims must be considered in determining the patentability of the claims.

In particular, the output of the first cryptographic process that comprises a plurality of authorization levels, with each authorization level being associated with one of a plurality of users of the card, is not taught or suggested by Johnson as asserted by the Examiner. Johnson does not disclose that the output from his biometric encoding process comprises a plurality of authorization levels. In fact, Johnson only uses a single level of authorization, i.e., legal owner of the card = yes/no, because Johnson only contemplates one legal card owner. Thus, Johnson cannot be properly interpreted as anticipating Applicant's invention as claimed in claims 27, 33, 34, 37, 41 and 42.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 27, 33, 34, 37, 41 and 42 under 35 U.S.C. § 102 over Johnson.

***Rejections under 35 U.S.C. § 103***

**Claims 1-10, 14-23, 27, 32-35, 37, 38, 40-45 and 47**

Claims 1-10, 14-23, 27, 32-35, 37, 38, 40-45 and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Johnson in light of U.S. Patent 4,816,653 to Anderl et al. Applicant notes that the Examiner has also rejected claims 37, 41 and 42 under § 102 and requests the Examiner clarify which rejection is the correct one.

Anderl discloses a portable data carrier that stores files and protects the files with various levels of security. However, Anderl does not teach or suggest that the various levels of security are the output of a first cryptographic process. Because Johnson also does not disclose this claim limitation, the combination of Johnson and Anderl cannot be properly interpreted as rendering obvious Applicant's invention as claimed in claims 1-10, 14-23, 27, 32-35, 37, 38, 40-45 and 47.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 1-10, 14-23, 27, 32-35, 37, 38, 40-45 and 47 under 35 U.S.C. § 103(a) over the combination of Johnson and Anderl.

**Claim 39**

Claim 39 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Johnson and Anderl in further view of U.S. Patent 6,014,636 to Reeder.

Reeder disclosed a home point of sale terminal. Reeder does not teach or suggest an output of a first cryptographic process that comprises a plurality of authorization levels, with each authorization level being associated with one of a plurality of users of the card, as claimed by Applicant in independent claim 37, from which claim 39 depends. Because the combination of Johnson and Anderl does not teach this limitation, the combination of Johnson, Anderl and Reeder cannot be properly interpreted as rendering obvious Applicant's invention as claimed in claim 39.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 39 under 35 U.S.C. § 103(a) over the combination of Johnson, Anderl and Reeder.

**Claims 11-12, 24-25, 36, 43, 46 and 57**

Claims 11-12, 24-25, 36, 43, 46 and 57 stand rejected under U.S.C. § 103(a) as being unpatentable over the combination of Johnson and Anderl in view of U.S. Patent 6,289,323 to Gordon et al (previously cited).

Gordon discloses conducting secure transactions using cryptographic transformations of messages. However, Gordon does not teach or suggest an output of a first cryptographic process that comprises a plurality of authorization levels, with each authorization level being associated with one of a plurality of users of the card, as claimed by Applicant in independent claims 1, 27 and 37, from which claims 11-12, 24-25, 36, 43, 46 and 57 depend. Because the combination of Johnson and Anderl does not teach this limitation, the combination of Johnson, Anderl and Gordon cannot be properly interpreted as rendering obvious Applicant's invention as claimed in claims 11-12, 24-25, 36, 43, 46 and 57.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 11-12, 24-25, 36, 43, 46 and 57 under 35 U.S.C. § 103(a) over the combination of Johnson, Anderl and Gordon.

### **Claims 13, 26 and 28-31**

Claims 13, 26 and 28-31 stand rejected over the combination of Johnson and Anderl in light of U.S. Patent 6,353,811 to Weissman (previously cited) and U.S. Patent 5,594,230 to Waite et al (previously cited).

Weissman discloses allocating monetary values to different sub-accounts within a user's main account. Waite discloses a barcode system. Neither Weissman nor Waite teach or suggest an output of a first cryptographic process that comprises a plurality of authorization levels, with each authorization level being associated with one of a plurality of users of the card, as claimed by Applicant in independent claims 1 and 27, from which claims 13, 26 and 28-31 depend. Because the combination of Johnson and Anderl does not teach this limitation, the combination of Johnson, Anderl, Weissman and Waite cannot be properly interpreted as rendering obvious Applicant's invention as claimed in claims 13, 26 and 28-31.

Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 13, 26 and 28-31 under 35 U.S.C. § 103(a) over the combination of Johnson, Anderl, Weissman and Waite.

### **SUMMARY**

Claims 1-47 and 57 are currently pending. In view of the foregoing amendments and remarks, Applicant respectfully submits that the pending claims are in condition for allowance. Applicant respectfully requests reconsideration of the application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Sue Holloway at (408) 720-8300 x3476.

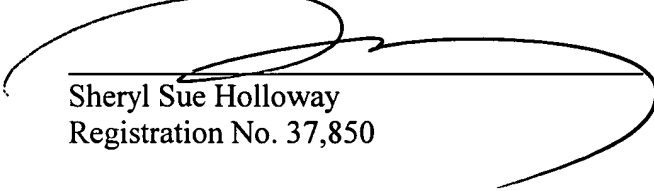
**Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicant hereby requests such extension.

Respectfully submitted,

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